

MHKO100010462012 	<u>REGULAR CIVIL SUIT NO. 260/2012</u> Sharada Shankar Sutar & ors. Vs. Kashinath Laxman Sutar & ors.
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ORDER BELOW EXHIBIT NO. 84 & 85

These are applications filed by plaintiffs for condonation of delay for bringing legal representatives on record and setting aside order of abatement of the deceased defendant no.8. It is contended by plaintiffs that, during the pendency of the suit, defendant no.8 Ganu Bhima Sutar died on 20/02/2013. It is further contended that, due to lockdown and S.T. Corporation strike, they could not meet their advocate within stipulated period. After death of defendant no.8 it is necessary to bring legal representatives of him within time. But due to above mentioned reasons plaintiffs failed to bring legal representative of defendant no.8 on record. If, legal representatives of defendant no.8 is not brought on record, legal complication will arise in the suit and plaintiffs will suffer irreparable loss. Therefore, they prayed to allow the application.

02. Say of defendants was called and defendant no.1 filed say vide Exh.87. It is submitted for defendants that, reasons mentioned in application are false. Deceased defendant no.8 is cousin of plaintiff who died on 20.02.2013. At the time of his death the plaintiff had came at Mouje Dundge. The plaintiff has knowledge of death of deceased defendant no.8. Ganu Bhima Suta died in the year 2013 and the outbreak of Corona occurred in the year 2020. No reason has been mentioned in the application as to why the inheritance application was not filed from 2013 to 2020. Thus, they prayed to reject the application with costs.

03. Upon perusal of application and documents it reveals that, defendant no.8 was died on 20/02/2013 and present application is filed

on 10/03/2022. As stated by plaintiffs there was lockdown and S.T. Corporation strike could not visit their advocate within time. If the period of death of defendant no.8 till filing of application is considered the reasons given are not sufficient to condone the delay. However, since suit is filed for partition and every necessary parties should be on record to decide the dispute on merit. If legal representatives of defendant no.8 are taken on record, no loss would cause to defendants. On the contrary if legal representatives of defendant no.8 brought on record, it helps to decide the dispute between parties on merits. Furthermore, valuable rights of the plaintiff is involved in the suit, if this application is not allowed, they will suffer irreparable loss. No doubt delay caused by plaintiff to bring legal representatives of deceased defendant no.8 on record must have caused inconvenience to the defendants. Thus, defendants have to be compensated by way of certain costs. Under such situation, to bring necessary parties on record application needs to be allowed. Hence, I proceed to pass following order.

:- ORDER :-

01. Applications are allowed subject to cost of Rs.500/- be paid to defendants on or before next date.
02. Delay caused in bringing legal representatives of deceased defendant no.8 Ganu Bhima Sutar is hereby condoned and abatement order of defendant no.8 is hereby set aside upon compliance of costs mentioned in clause-1.

(Dictated and pronounced in open Court.

Gadhinglaj.
Date: 30/09/2022.

(S. A. Rathod)
2nd Jt. Civil Judge, Junior Division,
Gadhinglaj.

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of stenographer	R. D. Patil.
Name of Court	S.A.Rathod, 2 nd Jt. Civil Judge Jr. Dvn. and Judicial Magistrate First Class, Gadhinglaj.
Date of Dictation	30/09/2022
Order signed by P.O. on	30/09/2022
Order uploaded on	30/09/2022